



An
Bord
Pleanála

Inspector's Report

ABP-318262-23

Development

Demolition of 2 support poles.
Construction of an 18m monopole and
all associated site works.

Location

Eir Exchange, Granard Street,
Ballyjamesduff, County Cavan, A82
TC67

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

2360127

Applicant(s)

Eir (Eircom Limited)

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Eir (Eircom Limited)

Observer(s)

Electromagnetic Sense Ireland
Pauline Tully TD
Ballyjamesduff Community Council
Linda & Gary McNeill

Date of Site Inspection

26th January 2023.

Inspector

Ronan O'Connor

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1.1. The subject site has stated area of 0.030 Ha and is located within the development boundary of Ballyjamesduff. It is located on a backland site on the southern side of Granard Street and on the western side of the town centre. The site is located to the rear of a telecoms exchange building which has a 10m high wooden pole to the front with telecommunications equipment attached to the top. Residential development directly adjoins the site to the south and west. To the east of the site there is an open area bounded by sheds and outbuildings. The site is accessed via a laneway from Granard Street which is flanked by the gable of a house to the west and by a commercial building to the east.
- 1.1.2. Lands to the south west of the site are mainly residential in nature with detached houses facing onto Granard Street and the houses within the Ashford Downs development of backing directly onto them. To the south west of the site is a row of commercial buildings that face onto Granard Street.

2.0 Proposed Development

- 2.1. Demolition of 2 support poles. Construction of an 18m monopole and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 20th September 2023, Cavan County Council decided to **Refuse Permission** for 2 no. reasons as below:
 1. It is considered that the proposed development by virtue of its scale, height and location would result in a significant negative impact on the character and setting of Ballyjamesduff town centre contrary to Objective ICT 05 of the Cavan County Development Plan 2022-2028, which seeks to ensure the locations of telecommunications structures minimise and/or mitigate any adverse impacts on communities, public rights of way and built or natural environment. The proposed development at this location would result in a visually dominant addition to the

streetscape of Ballyjamesduff contrary to Map Based Specific Objective 3, which seeks to ensure the protection and support visual improvements of the unique streetscape of Ballyjamesduff. It is thus considered that the proposed development would materially contravene the provisions of the Cavan County Development Plan 2022-2028 and the proper and sustainable development of the area.

2. Having regard to the zoning objective of the site, which seeks to 'Protect and enhance the amenity of developed residential communities.', it is considered notwithstanding that telecommunication uses area permitted in principle at this location the proposed development by virtue of its scale, nature and location would have an adverse impact on adjoining residential amenities, contrary to Objective ICT 04 which seeks to achieve a balance between facilitating the provision of telecommunications infrastructure and the preservation of residential amenities. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The report of the Planner (dated 14th September 2023) is summarised below.

- The principle of development was considered acceptable, subject to compliance with wider policy objectives contained in the Cavan County Development Plan 2022-2028.
- Notes that, notwithstanding the technical justification, consideration must be given to the surrounding environment, in terms of potential impact on visual or residential amenities arising from the construction of the proposed development.
- Significant concerns that the proposed development will have a significant impact on the historic character of the Town.
- Reference is made to Section 2.4.11 Map Based Specific Objectives and Specific Objective 3 which seeks to ensure the protection of and support visual improvements of the unique streetscape of Ballyjamesduff.

- Not satisfied the proposed development by virtue of its scale, height and location would not adversely impact the visual amenity or character of the area/considered that the proposed development would contravene Objective ICT 05 of and Specific Objective 3 of the Cavan County Development Plan 2022-2028.
- Considered that the proposed development by virtue of its scale, nature and location would result in a visually overbearing addition to the landscape and would have a significant impact on residential amenity, and as such would be contrary to the zoning objective which seeks to 'Protect and enhance the amenity of developed residential communities'.

3.2.3. Recommendation was to refuse permission for the two reasons as set out above.

3.2.4. Other Technical Reports

Municipal District Engineer [report dated 8th September 2023] – No objection

Environment [report dated 22nd August 2023) – No objection/conditions recommended.

3.3. Prescribed Bodies

3.3.1. Irish Aviation Authority [dated 14th August 2023] - The Authority has no requirement for obstacle lighting.

3.4. Third Party Observations

3.4.1. The planner's report notes that there were 73 no. submissions/observations, and the summary of same is reproduced within the planner's report. I would note that the issues raised in the submissions and observations are similar to those raised in the 4 no. observations on the appeal, as summarised in Section 6.1 below.

4.0 Planning History

ABP Ref 315591-23 (PA Ref 21131) – Refuse Permission for an 18m high monopole telecommunications support structure together with antennas, dishes and ancillary

works all enclosed in security fencing [Decision Date 24/04/2023] for 2 no. reasons as per below:

1. The Board is not satisfied on the basis of the information received, in particular the absence of a visual impact assessment, that the proposed development of an 18-metre telecommunications monopole and associated infrastructure, within the town centre of Ballyjamesduff on a site with existing telecommunication structures, would not negatively impact the visual amenities of the town centre, the wider area and the adjoining residential development. In the absence of such information, it is considered that the development as proposed would be contrary to national guidance as set out in section 4.3 of the Department of the Environment and Local Government Planning Guidelines 'Telecommunications Antennae and Support Structures' (1996) and Objective ICT 05 of the Cavan Development Plan 2022-2028 which seeks to ensure that the location of telecommunication structures minimise and/or mitigate any adverse impacts on communities, public rights of way and the built or natural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the number and configuration of existing poles on the site and the scale and location of the proposed development, in the absence of evidence as to a consideration of the consolidation/amalgamation of existing and proposed telecommunication poles at the site, it is considered that the cumulative impact of the existing structures and proposed development would have an overbearing impact and give rise to adverse visual effects on the adjoining residential properties. The development as proposed would detract from the existing residential amenity of the adjacent residential property and would, therefore, be contrary to the proper planning and sustainable development of the area.

ABP Ref 310371 (PA Ref 21/131) – Grant Permission (following a PA decision to refuse permission) for an 18m high monopole telecommunications support structure together with antennas, dishes and ancillary works all enclosed in security fencing [Decision Date 02/12/2021] - Board's Decision quashed by Order of the High Court (Perfected on 8th December 2022), New case number ABP-315591-23 [see above]

PA Reg Ref 09/516 – Planning permission granted by the PA in February 2010 for development consisting of an existing telecommunication support pole 10.5 metre high with antenna, equipment cabinet and associated equipment within the eircom exchange compound.

PA Reg Ref 04/1415 – Planning permission granted by the PA in July 2004 for the retention of a 10.5m high support pole and antennae used for mobile communications. (Previous Planning Ref. 99/258).

PA Reg Ref 99/258 – Planning permission granted by the PA in March 1999 for the retention of a support pole and antenna for mobile communications.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040

Objective 24 – ‘Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.’

Objective 48 – ‘In co-operation with relevant Departments in Northern Ireland, develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis.’

5.2. Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)

The guidelines aim to provide a modern mobile telephone system as part of national development infrastructure, whilst minimising environmental impact. Amongst other things, the Guidelines advocate sharing of installations to reduce visual impact on the landscape.

4.3 – Visual Impact - The guidelines note that visual impact is one of the more important considerations which have to be taken into account and also that some masts will remain quite noticeable in spite of the best precautions.

It is noted that *‘Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should*

become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation’.

It is further noted that *‘Only as a last resort ...should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure’.*

4.5 – Sharing Facilities and Clustering – Applicants will be encouraged to share facilities and to allow clustering of services and will have to satisfy the Planning Authority that they have made a reasonable effort to share.

5.3. DoECLG Circular Letter PL07/12

This Circular was issued to Planning Authorities in 2012 and updated some of the sections of the above Guidelines including ceasing the practice of limiting the life of the permission by attaching a planning condition.

It also reiterates the advice in the 1996 Guidelines that planning authorities should not determine planning applications on health grounds and states that, ‘Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process’

5.4. Development Plan

The site is located within the administrative boundary of Cavan County Council. The operative Development Plan for the area is the Cavan County Development Plan, 2022-2028 (Incorporating the Draft Cavan Town Local Area Plan 2022-2028).

The following provisions of the Development Plan are relevant to this appeal:

Ballyjamesduff is categorised as a Self-Sustaining Town within the Settlement Strategy for the County.

The site is zoned 'Existing Residential'. The objective of this zoning is to –

'Protect and enhance the amenity of developed residential communities'. The vision for this zoning is to -'Ensure that any new development does not adversely impact upon the amenity of existing residential properties. New housing and infill developments should be in keeping within the character of the area. Seek to enhance associated open space and community uses and improve the quality of existing residential areas'.

Telecommunications are listed as 'Permitted in Principle' under the zoning objective.

Section 2.4 - notes that Ballyjamesduff has a very clear and distinctive, planned urban form with characteristically short and wide buildings forming a continuous street frontage typical of eighteenth and nineteenth century market towns. The town underwent a substantial population increase between 2006 and 2011 and did not experience an equivalent increase in jobs and services.

Focus should be on improving services and employment to reduce commuting and to strengthen the town.

Map Based Specific Objectives- Map based specific objectives have been created for several areas within the Development Boundary. Refer to Ballyjamesduff zoning map.

Specific Objective 3 - Ensure the protection and support visual improvements of the unique streetscape of Ballyjamesduff including its focal buildings of the Market House and the Town Square, which features a statue of Percy French and is a focal point for the centre of Ballyjamesduff and an important element of the character of town.

Section 6.14.2 – Telecommunications – notes that Telecommunications are a key infrastructural element that requires attention.

Section 6.20 – Home Based Economic Activity and Remote Working –

Objective HBEA 01 - Engage with all relevant stakeholders and broadband infrastructure providers to ensure the roll-out of the National Broadband Plan in County Cavan, as well as supporting in principle improvements to existing broadband networks.

Section 7.12 – Information Technology and Broadband – notes that an efficient telecommunications system is important in the development of the economy. The following are objectives of the Council in this regard,

ICT 04 - Achieve a balance between facilitating the provision of telecommunications infrastructure in the interests of social and economic progress, and sustainable residential amenity and environmental quality.

ICT 05 - Ensure the locations of telecommunications structures minimise and/or mitigate any adverse impacts on communities, public rights of way and built or natural environment.

ICT 06 - Encourage co-location of antennae on existing support structures and to require documentary evidence as to the non-availability of this option in proposals for new structures. The shared use of existing structures will be required where the numbers of masts located in any single area is considered to have an excessive concentration.

ICT 07 - Facilitate the provision of telecommunications infrastructure throughout the county in accordance with the requirements of the 'Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities' July 1996 and Circular Letter PL 07/12 or any update thereof.

LC 3 Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks and large agricultural /horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value

LC 5 - Ensure new development meets high standards of siting and design

LC 6- Protect skylines and ridgelines from development

5.5. Natural Heritage Designations

- 5.5.1. No designations apply to the subject site. The closest nationally designated site is the Lough Ramor pNHA (Site Code 000008), located approximately 6.6km south-east of the site. The closest European site is Lough Sheelin SPA (site code 004065) located approximately 6.7km south-west of the site.

5.6. EIA Screening

- 5.6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening assessment. I refer the Board to Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. This appeal is a first-party appeal lodged on behalf of Eir (Eircom Limited) against the Council's decision to refuse permission. The appeal was lodged on the 17th October 2023. The grounds of appeal are summarised below:

- Rationale is to improve the coverage and capacity of mobile telecommunications and broadband services in this area of Ballyjamesduff.
- Following previous refusals by the PA and the Board, this revised proposal includes the removal of the 2 no. wooden support poles, the inclusion of photomontages and site justification provided by Vodafone.
- Consider new application fully addresses these reasons for refusal.

Location

- The site is an established utilities site/history of telecommunications use/previous permissions for same.
- The wooden support structures cannot meet current or future demand.

- A monopole is considered a more suitable design for this location in a town centre setting/it can accommodate co-location of equipment with the proposed height.

Need

- Proposed development must be in reasonable vicinity to the area in which it is intended to serve.
- Would enable a more widespread connection nationwide/and improved opportunities for business and working from home initiatives.
- Notes Section 2.3 of Circular Letter PL07/12 – states that Planning Authorities should not include separation distances from telecommunications infrastructure as they can have major impact on the roll out of a viable and effective telecommunications network.
- Not uncommon for such structures to be in close proximity to towns and villages.
- Presence of commercial/retail/dwellings/offices/recreational/tourist attractions in the area increases the justification for the proposed infrastructure.
- Potential for co-location/reducing the potential number of free-standing structures in the area.
- Considered proposal meets the balance between facilitating the delivery of improved telecommunications infrastructure and the protection of the built and natural environment.

Visual Impact

- Submitted that the monopole structure is not overly excessive.
- Replaces existing telecommunications infrastructure with the removal of 2 no. existing wooden support poles.
- Considered proposed structure would be mostly unnoticeable and intermittent given the setting of same.
- Proposed infrastructure is a typical design for this type of support structure.
- Provision of planting to help screen the lower levels of the development.

- Reference is made to the photomontages submitted with the application /included in Appendix A of the appeal submission/demonstrate that the proposed development would not be visually obtrusive in the area nor would it be overbearing.
- Considered that visual impact would be acceptable.

Planning Policies

- Reference is made to relevant sections of the Cavan County Development Plan 2022-2028 including Sections 6.14 and relevant ICT Development Objectives.
- Significant that 'telecommunications' use is now permitted in principle with reference to the zoning on the site.
- Reference is made to the 'Report of the Mobile and Broadband Taskforce and Action Plan for Rural Development' - purpose of the taskforce report is to deliver the National Broadband Plan in the shortest time possible/proposed development is wholly in accordance with the recommendations of the taskforce report.
- Reference is made to the Project 2040/National Planning Framework/National Development Plan 2018-2027.
- Concluded that local and national policies support and underscore the need for supporting infrastructure to facilitate connectivity, broadband rollout and the strengthening of rural Ireland.
- Planning Precedents.
- Reference is made to recent decisions made by Cavan County Council and An Board Pleanála (7 no. in total) who have granted permission for similar developments/Were within established Eir exchange settings/of similar height and scale.

Encl: Appendix A – Vodafone Site Justification Report ; Appendix B – Vodafone Letter of Support

6.2. Planning Authority Response

- 6.2.1. A response to the First Party Appeal from Cavan County Council was received on 13th November 2023. This is summarised below:

- Remains the Planning Authority's opinion that the proposed development would result in a negative impact on the character and setting of Ballyjamesduff town centre/visually dominant addition to the streetscape of Ballyjamesduff.
- Notwithstanding that telecommunications are permitted in principle at this location when taken in the context of the immediately adjacent residential dwellings, that the proposed development by virtue of its scale, nature and location would result in a visually overbearing and would have a significant impact on residential amenity/would be contrary to the zoning objective which seeks to '*Protect and enhance the amenity of developed residential communities*'.
- Considered that the proposal would materially contravene the provisions of the Development Plan.
- Submit that the Board should uphold the decision of the Planning Authority and refuse permission for the proposed development.

6.3. Observations

6.3.1. 4 no. observations on the appeal were received and are as summarised below:

1. Electromagnetic Sense Ireland

- Noted that the PA have refused permission on the basis of a material contravention of the Development Plan.
- The first party appeal does not address this issue at all.
- Board's jurisdiction in this appeal is limited/may only grant permission with reference to the criteria in Section 37(2)(b). In this regard:
 - The development is clearly not of strategic or national importance.
 - There are no conflicting objectives in the Development Plan/Plan supports appropriate development of telecommunications infrastructure in suitable locations/PA and the Board have determined that this is not a suitable location/Developer is persisting with applying at this location for commercial reasons.
 - Development is clearly in breach of Section 28 – Antenna Guidelines for Planning Authorities/location is inappropriate.

- No pattern of permission for inappropriately located telecommunications masts in Co. Cavan since the 2022 Development Plan came into effect.
- Submit that it is not possible to justify granting permission having regard the relevant criteria (of 37(2)(b)).
- Actual development of the mast is to be carried out by Towercom Limited and not Eircom.
- Nothing that indicates that Eircom have consented to the making of this appeal/application to the PA was not signed by either Eircom or Towercom.
- Board should take the opportunity in this case to seek information from Towercom and Eircom as to the nature of their contractile arrangements for the portfolio of Eir Exchange sites which Towercom has acquired/why Towercom is not making the applications in its own name.
- Submit that the reason that there has not been a disclosure is that this would cause difficulties with planning requirements/need to assess alternatives.
- Identity of the developer is of critical importance in relation to the planning assessment required for mobile telecommunication/technical justification for new infrastructure is central to the requirements of the 1996 Telecommunications Antennae and Support Structure Guidelines for Planning Authorities ('the Telecoms Guidelines').
- The two previous applications for a mast at this location have been made in the name of Eircom.
- Application form in the present application has not been signed/nothing to indicate that Eircom have actually made this application.
- Similar applications have been made across the stage/including in Glenealy, Co. Wicklow (PA 21/631)/This was refused by the PA but allowed by the Board.
- Observations are made in relation to the composition of the Board/decisions of the Board in relation to telecommunications appeals over a two year period/same Board decided ABP ref 310371 which was quashed by order of the High Court.

- In JR proceeding relating to the Glenaly appeal, Towercom advised that it was the developer of the tower mast/application was made in the name of Eircom/other Eir sites across the State are to be developed by Towercom Limited.
- Consider the contractual arrangement between Eircom and Towercom represents a breach of the permission regulations.
- Site is a town centre site/'last resort' test is engaged with reference to the Telecoms Guidelines/Must be demonstrated applicant has adequately assessed other possible alternative sites in the area/Towercom has no intention of assessing alternative site.
- Request that the Board request Further Information from Eircom in relation to the identity of the entity intending to carry out the development/rights to develop the site/identity of applicant/assessment of alternative sites other than an EIR exchange (in relation to this site and other sites).
- Submit that the application is driven by commercial interests of Towercom and not to address any technical needs or deficiencies in network coverage.
- Application does not satisfy the requirements of Objective ICT 07 of the County Development Plan/Development Plan imposes a mandatory obligation of compliance.
- Applicant cannot meet the needs of Section 4.3 of the Telecoms Guidance.
- A grant of permission would be a material contravention of ICT 07 as well as ICT 05 as cited by the PA.

Encl: Affidavit of Tony Killarney

2. Pauline Tully TD

- Community and businesses of Ballyjamesduff are growing increasingly concerned over the number of planning applications to Cavan Co. Co./appeals to ABP by Towercom for the monopole.
- Planners for Cavan Co. Co./Inspectors for APB have all reached the same decision/planning for this monopole should be refused due its size, scale, built,

location and proximity to the town, to residential amenities and to adjoining properties/none of these factors have changed.

- Planning History of the site is set out.
- Site location and description is set out.
- No community engagement/consultation at any stage/to discuss visual impacts/to discuss any mitigation proposals by Eir.
- Location of proposed development is totally unacceptable and inappropriate/very close to residential properties/residential amenities.
- Would be 5 m from the garden of the adjoining property/20m from further properties/2m from the green area of Ashford Downs/60m from crèche and preschool/60m from Granard Street.
- Proposal is permitted in principle but other factors must be considered.
- Health implications.
- Would materially contravene the Development Plan by virtue of its scale, height and location/would result in significant visual impact on the character and setting of Ballyjamesduff.
- Would be contrary to policies relating to ICT/Landscape.
- Would have an overbearing impact/adverse visual effects on adjoining properties and residential amenities.
- Would be visually dominant/would not integrate into its surroundings.
- Would cause a detrimental visual impact on the historic market town.
- Would be contrary to Telecommunication Guidelines (1996)/Circular Letter PL 07/12.
- Would decrease the value of surrounding properties.
- 4G coverage is already classed by comreg as good and very good/cannot see reasoned justification by Eir for this proposed development.
- Would have a negative impact on the tourist industry.

- EIR have a mast on the Ramonan TD site which is only 600m from the subject site. Alternative location could have been found/Could share facilities with Vodaphone on the water treatment plant.

3. Ballyjamesduff Community Council

- Community and businesses of Ballyjamesduff are growing increasingly concerned over the number of planning applications to Cavan Co. Co./appeals to ABP by Towercom for the monopole.
- No community engagement to discuss the need for or location of the proposed development/appeal did not acknowledge any of the objections submitted to Cavan Co. Co.
- Will be 60 m from the town core/bordered by residential property.
- 60m from creche and preschool.
- 30m from the River Inny.
- 2 m from the green area in Ashford Downs.
- Subject site is a small site with a 4 m high Eir Exchange.
- Town is a historic market town/has mainly low rise buildings/proposed development will be visually intrusive and overbearing.
- Will be a dominant feature in the town centre.
- Will not integrate in to the landscape/streetscape.
- Will have a detrimental visual effect.
- Can see no justification for the location/4 G is classed as good and very good by Comreg.
- 73 submissions of objection to Cavan Co. Co. on the planning application.
- Planning History of the site is set out/previous planner's and inspector reports are referred to.

Enclosed (petition in support of the objection to the appeal with a total of 770 no. signatures)

4. Linda and Gary McNeill, 63 Ashford Downs

- Proposed development is 5m from the garden of our property/2m from the green area.
- Previous reasons for refusal as stated by Cavan Co. Co/ABP are still valid i.e. negative impact on the town centre/proposed monopole design/size and location are still the same; overbearing impact - context is the same; Material Contravention of the Development Plan – this has not changed; cumulative impact – proposed removal of 2 wooden poles from the site will not mitigate the overbearing impact of the proposed development.
- Map based specific objective 3 – seeks to ensure the protection and support visual improvements of the unique streetscape of Ballyjamesduff – could not be achieved with this proposed development.
- 4G coverage is already good and very good/the NPF refers to rolling out broadband where it is needed.
- Over 600 plus locals have signed the petition.
- Photomontage document is not a true representation of the visual effects of this proposed development.
- Does not show the adjoining residential properties of Ashford Downs.
- View 6 was taken in a way to obscure our property and surrounding area.
- Existing site has a 10m pole permitted before the development of the estate/does not compare with the proposed development.
- Not shown a reasoned justification for the need.
- Eir (Eircom) is not the actual developer/cannot meet the requirements of Section 4.3 of the Guidelines/Circular PL 07/12.
- Application is driven by the need to secure a commercial return on the existing investment in the Eir Exchange.
- The no separation distances in the circular letter should not be interpreted as erecting such structures 5m from someone's garden.
- Similar developments need to be assessed on a case-by-case basis.

Enclosed (petition in support of the objection to the appeal with a total of 770 no. signatures); Copy of original submission to Cavan Co. Co.

7.0 Assessment

7.1. The main issues that arise for assessment in relation to the appeal can be addressed under the following headings;

- Principle of Development
- Requirement for the Development
- Location of Development/Visual Impact/Impact on Residential Amenity
- Other Issues

7.2. Principle of Development

7.2.1. The subject site is zoned 'Existing Residential' under the provisions of the Cavan County Development Plan 2022-2028. Telecommunications are listed as 'Permitted in Principle' under the zoning objective. I would note also that the site already has telecommunications structure in place, and it is proposed to replace same with the monopole as proposed here. As such, the proposed development is acceptable in principle subject to the considerations below, including considerations of residential amenity, noting the overall zoning objective for the site which is to 'Protect and enhance the amenity of developed residential communities'.

7.3. Requirement for the Development

7.3.1. The applicant has stated that the rationale for the proposed development is to improve the coverage and capacity of mobile telecommunications and broadband services in this area of Ballyjamesduff. It is also stated that there is potential for co-location and hence reducing the potential number of free-standing structures in the area. The appeal submission is accompanied by a Site Justification Report (which was also submitted at application stage) which sets out that there is a gap in the 'Very Good' coverage of 2G and 3G in Ballyjamesduff, with the proposed development providing for a significant increase in Very Good' coverage in Ballyjamesduff. The proposal will also improve 4G coverage levels, with a gap in the 'Very Good' coverage in Ballyjamesduff. It is also set out that the proposed

development will help to offload traffic from other telecommunications infrastructure to allow a better service to the wider rural area.

- 7.3.2. Observer submissions has stated that the application is driven is driven by commercial interests of Towercom and not to address any technical needs or deficiencies in network coverage, and it is also stated within the observations that 4G coverage within the town is either 'good' or 'very good', with reference to Comreg. However, I note no mapping or other supporting evidence has been provided to support these observations on the existing levels of service within the town.
- 7.3.3. I note that the PA have not disputed the need for the proposal in their evidence, nor has the need for the development been disputed in the Board's previous assessment of a similar development on this site (Appeal Ref ABP Ref 315591-23 refers).
- 7.3.4. I note that national and local planning policy supports the provision and improvement of telecommunications infrastructure. Taking account of same, and having regard to the information submitted with the application and appeal, I consider that there is sufficient evidence to demonstrate that there is a need for the proposal and that it would, if permitted, result in improved coverage in the town of Ballyjamesduff, as well as improved coverage in the wider rural area, by decreasing traffic on existing telecommunications infrastructure. As such I am satisfied that the need for the proposed development has been adequately established by the applicant.

7.4. Location of Development/Visual Impact/Impact on Residential Amenity

- 7.4.1. The first-party appeal submission has set out that the site is an established utilities site with a history of telecommunications use, and that it has previous permissions for same. It is further set out that it is not uncommon for such structures to be in close proximity to towns and villages. In terms of the visual impact, it is set out that the existing wooden support structures cannot meet current or future demand and that monopole is considered a more suitable design for this location in a town centre setting, and furthermore, it can accommodate co-location of equipment with the proposed height. In response to the previous refusals by the PA and the Board, the applicant has set out that the revised proposal includes the removal of the 2 no. wooden support poles, the inclusion of photomontages and site justification provided by Vodafone, all of which address the previous reasons for refusal.

- 7.4.2. The Planning Authority are of the view that the proposal would result in negative impact on the character and setting of the town and would be visually overbearing, and contrary to the zoning objective which seeks to protect and enhance the amenity of developed residential communities. It is further set out that the proposal would materially contravene the provisions of the Development Plan. Reason No. 1 of the Council's reasons for refusal states the proposal is contrary to Objective ICT 05 and contrary to Map Based Specific Objective 3 of the Development Plan, and it is stated the proposal would materially contravene the Development Plan. Reason No. 2 refers to impacts on adjoining residential amenities and it is stated the proposal is contrary to Objective ICT 04 of the Development Plan.
- 7.4.3. Observer submissions refer to Section 4.3 of 3 of the Telecommunications Antennae and Support Structures Guidelines (the Guidelines) and note that village and sites such as this one are considered a 'last-resort'. It is further set out that it must be demonstrated that applicant has adequately assessed other possible alternative sites in the area and this has not been done. It is also stated that there are other alternative sites for this proposed development. Observer submissions have also cited concern in relation to the visual impact of the proposal and the related impact on residential amenity, as well as the impact on the historic character of Ballyjamesduff town centre.
- 7.4.4. In relation to the location of the development, I note the advice as set out in Section 4.3 of the Telecommunications Antennae and Support Structures Guidelines (the Guidelines) which state that sites such as this one (within a small town centre and within a residential area) should be considered as a last resort. Alternative locations such as *inter alia* existing substations, or other suggested locations, should also be explored. However, I would note that the Guidelines also concede that such sites may be necessary and, in that event, existing utility sites should be considered and specific design solutions should be employed. In relation to alternative locations, the cover letter submitted with the application (dated 2nd August 2023) sets out that there are no other substantial existing sites within the required Ballyjamesduff town centre, capable of accommodating multiple users at one location. While other sites have been referred to by some observers on the appeal, there is no indication that these would be adequate for the development as proposed. In this regard, it would appear then that this site is, in fact, a 'last resort' site. In keeping with the Guidelines, the

proposed development is on a site that is an established utilities exchange in use for telecommunication. I further note that the applicant has confirmed that there is potential for co-location with additional users, which reduces the potential need for similar telecommunications infrastructure on other sites, and reducing visual impacts associated with same (as espoused in Section 4.5 of the Guidelines).

- 7.4.5. I note that a previous proposal on this site was refused by the Board, for 2 no. reasons, the first relating to a lack of information in relation to the potential impact on visual amenities, in particular the absence of a visual impact assessment. I note that a photomontage document has been submitted with the application (and attached to the appeal submission) but this is not visual impact assessment, in and of itself, and is not prepared with reference to any best practice guidance relating to same, nor is the document itself supported by any consideration of the significance of potential impacts resulting from the proposed development. Notwithstanding, the photomontage document does provide some indication of the potential visual impact of the proposed monopole and the appeal statement provides some supporting text that makes reference to same (section 3.3 of the applicant's appeal statement).
- 7.4.6. With reference to the photomontage document, I note that the monopole will be generally visible from shorter and longer views from Anne Street/R194 to the south-west of the site (Views 2 and 3), and from a view through the gap between the buildings on Anne Street/R194 (View 5). It would be most visible when viewed from Ashford Downs residential estate, due in part to the lack of intervening structures which would obscure views towards same. (View 6).
- 7.4.7. In relation to the impact on the character and setting of the wider town centre, I accept it will be seen from certain vantage points, but where it can be seen from I am not of the view that it would appear unduly prominent, and not out of place in an urban setting, and there is very little impact, in my view, on the character and setting of the town centre. This is due to the views from the east and north being generally obscured by existing buildings (I refer to Photomontage Views 1 and 4), with only limited shorter views gained through gaps in the building (View 5). Where the monopole can be seen above existing buildings (i.e. Views 3 and 4) it is not overly dominant and does not impact visually on any buildings of particular historical or architectural merit. I accept that the Planning Authority have cited concerns in

relation to the impact on the historic character of the town, as have the observers on the appeal, but given the above considerations, I do not share these same concerns.

- 7.4.8. However, I do have concern in relation to the potential visual impact when viewed from Ashford Downs, and the subsequent impact on the visual and residential amenity of these properties. A shorter viewpoint either closer to the site taken from Ashford Downs, or from the green area to the north of Ashford Downs is absent from the photomontage document (View 6 is taken from Ashford Downs but is taken approximately 106m west of the site). In relation to the potential visual impact from this residential estate, and in particular from the adjoining residential property, I acknowledge that there is existing telecommunications infrastructure in place on the site, but I am of the view that such infrastructure is far less visually dominant than that proposed here, with the existing pole structure somewhat obscured from view by virtue of its location on the site, the nature of the pole, which is 10 m in height and is of an appearance akin to the telegraph pole to the north of same.
- 7.4.9. The proposed monopole is 18m in height (overall height is 19.5m including the lightning rod) and is set forward of the existing dwelling houses in Ashford Downs, which further increases the potential visual impact, when viewed from this estate. I would note that the proposed monopole itself is located some 7m from boundary of the nearest dwelling (No. 63 Ashford Downs), and I am of the view that same would present an overbearing and visually dominant feature when viewed from this dwelling, impacting negatively on the visual amenity of same, and would have a negative impact on the visual amenity of the other surrounding dwellings with the same estate. While the proposal is a monopole structure, which is consistent with the Guidelines, there is no other indication of how the masts and antennae has been designed and/or adapted for the specific location, as required by the Guidelines. As such, I am of the view that the proposal is contrary to the above guidelines, and is also contrary to Policy ICT 04 of the Cavan Development Plan 2022-2022, which aims to achieve a balance between facilitating the provision of telecommunications infrastructure, in the interests of social and economic progress, and sustainable residential amenity and environmental quality.
- 7.4.10. In relation the Board's most recent decision on this site (ABP Ref 315591-23), I note that Reason for Refusal No. 2 cited the cumulative impact of the existing structures on the site, giving rise to an overbearing impact and adverse visual effects on

adjoining residential properties. The applicant has stated that the existing 2 no poles will be removed from the site (I note that only one telecommunications pole was visible on the site at the time of my visit), and while my concerns above remain, I am satisfied that issue of any potential cumulative impact has been addressed in this current application.

7.5. Other Issues

- 7.5.1. Material Contravention – An observer on the appeal has noted that the PA have refused permission on the basis of a material contravention of the Plan and that the Board may only grant permission with reference to the criteria in Section 37(2)(b) of the Planning and Development Act, 2000 (as amended). It is further set out that the proposal does not meet this criteria, and the appeal as submitted does not address these criteria.
- 7.5.2. In relation to same, I concur that if the Board were minded to grant permission, they can only so if they are satisfied that the criteria as set out in Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) have been met.
- 7.5.3. Identity of the Applicant – An observer on the appeal has stated that the applicant is, in fact, Towercom, and not Eircom, and that nothing indicates that Eircom have consented to the making of this appeal, nor has the application to the PA been signed by either Eircom or Towercom. It is requested that the Board request Further Information from Eircom in relation to the identity of the entity intending to carry out the development. In relation to same, I note the application details that Towercom are acting as the agent for Eir, and the application includes a letter from Eir stating that they have authorised Towercom Limited to submit an application on Eir's behalf and I am satisfied that this is sufficient to demonstrate that Eir is the applicant in this instance.
- 7.5.4. Planning Precedents – The appellant has set out other similar developments in Cavan, Mayo and Clare that have been granted permission by the Board. In relation to same, I note that each proposal is considered on its own merits, and having regard to the particular development proposed and the context of the site within which it sits.

8.0 Appropriate Assessment Screening

- 8.1.1. Having regard to the nature and scale of the development under consideration, the site location within an existing town centre outside of any protected site, the nature of the receiving environment and the proximity of the lands in question to the nearest European site (Lough Sheelin SPA (site code 004065) located approximately 6.7km south-west of the site), it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

9.0 Recommendation

- 9.1. I recommend that permission is refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

The proposed development, by virtue of its scale, its position within the site and its location in close proximity to existing residential dwellings with the Ashford Downs residential estate, would present as an overbearing and dominant form of development, and would subsequently have a negative impact on the residential and visual amenity of the residential properties within this estate. While the Board acknowledges that the site is an existing utilities site, the monopole as proposed does not appear to have been designed and/or adapted for the specific location, as required by Section 4.3 of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996). As such the proposal is considered to be contrary to said Guideline and is considered to be contrary to Policy ICT 04 of the Cavan Development Plan 2022-2028 (Incorporating the Draft Cavan Town Local Area Plan 2022-2028).

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Rónán O'Connor
Senior Planning Inspector

30th May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318262-23		
Proposed Development Summary	Demolition of 2 support poles. Construction of an 18m monopole and all associated site works.		
Development Address	Eir Exchange, Granard Street, Ballyjamesduff, County Cavan, A82 TC67		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	X		
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X		No EIAR or Preliminary Examination required
Yes			

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____